

Message Text

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ACTION OES-04

INFO OCT-01 NEA-09 IO-10 ISO-00 FEA-01 ACDA-05 CIAE-00

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NSCE-00 /045 W

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FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC IMMEDIATE 5363

INFO AEC GERMANTOWN IMMEDIATE

AMEMBASSY TEL AVIV PRIORITY

C O N F I D E N T I A L SECTION 1 OF 2 IAEA VIENNA 0146

E.O. 11652: GDS

TAGS: PARM, TECH, IAEA, IS

SUBJECT: US-ISRAEL-IAEA TRILATERAL SAFEGUARDS AGREEMENT

REF: A. STATE A-9154, DEC. 13, 1974

B. STATE 4544

C. IAEA VIENNA 10407

D. IAEA VIENNA 10481

1. ISRAELI RES REP EDEN BROUGHT WITH HIM, ON RETURN FROM TEL AVIV TO VIENNA SEVERAL DAYS AGO, LETTER FROM D. PELEG, ADMINISTRATIVE DIRECTOR IAEC, TO STEIN, IAEA LEGAL DIVISION, COMMENTING UPON SECRETARIAT DRAFT OF SUBJECT AGREEMENT, DESCRIBED REFTEL D. MISOFF WAS INVITED BY SECRETARIAT TO PARTICIPATE IN DISCUSSION PELEG LETTER BY ROMETSCH, FISCHER AND RAMES (IN STEIN'S ABSENCE) WITH EDEN EVENING JANUARY 8. FOLLOWING ARE RESULTS THAT DISCUSSION, WITH REFERENCE TO U.S. DRAFT TEXT TRANSMITTED REFAIR A:

A) SECTION 1. AGENCY WILLING MEET PELEG REQUEST INCLUDE DEFINITIONS OF "GOVERNMENT" AND "AGREEMENT FOR APPLICATION OF SAFEGUARDS" AS THEY APPEAR IN INFCIRC/152. MISSION RECOMMENDS U.S. AGREE.

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B) SECTION 1(C): PELEG FOUND STEIN PROPOSAL REPORTED

REFTEL D INADEQUATE IN THAT IT DID NOT PROVIDE FOR NEW NON-SUPERSEDING BILATERAL. ACCORDINGLY, AGENCY PROPOSED ADDING TO U.S. DRAFT TEXT QUOTE OR EXTENDED OR ANY NEW AGREEMENT FOR COOPERATION BETWEEN ISRAEL AND THE UNITED STATES CONCERNING CIVIL USES OF ATOMIC ENERGY AND ANY AMENDMENT OR EXTENSION THEREOF UNQUOTE. SECRETARIAT MEMBERS EMPHASIZED UTILITY TO IAEA OF SINGLE TRILATERAL WITH U.S. AND ANOTHER COUNTRY, EVEN IF SEVERAL BILATERAL AGREEMENTS BETWEEN THOSE GOVERNMENTS, EACH COVERING PARTICULAR SCOPE OF ACTIVITIES, WERE TO BE IN EXISTENCE AT SAME TIME. MOREOVER, OPEN-ENDED FORMULATION MIGHT AVOID NECESSITY FOR CONSIDERATION NEW TRILATERAL BY FUTURE BOARD. CONSIDERED JUDGEMENT OF FISCHER AND ROMETSCH IS THAT FOREGOING FORMULATION WILL NOT RPT NOT PROVOKE ADVERSE REACTION BY BOARD MEMBERS. MISSION CONCURS THAT VIEW AND SEES ADVANTAGE IN PROVIDING FLEXIBILITY, AT LITTLE OR NO RISK, BY ITS INCLUSION, EVEN THOUGH IT MAY BE DECIDED IN CASE OF FUTURE BILATERAL TO NEGOTIATE NEW TRILATERAL.

C) SECTION 3: IN RESPONSE PELEG'S QUESTION AND EDEN'S REQUEST, AGENCY AGREEABLE (IN FACT, OMISSION ATTRIBUTED BY SECRETARIAT TO OVERSIGHT) TO INCLUSION OF PHRASE "EQUIPMENT OR FACILITY", FOLLOWING REFERENCE TO "SPECIAL FISSIONABLE MATERIAL". NOTE THAT AGENCY ALSO WILLING TO DROP PHRASE "SPECIAL FISSIONABLE" AND REFER ONLY TO "MATERIAL, EQUIPMENT OR FACILITY", BUT CALLS ATTENTION TO PRECEDENT IN U.S.-SWISS TRILATERAL (INFCIRC"161) FOR EXAMPLE. MISSION RECOMMENDS U.S. AGREE TO ISRAELI REQUEST SO THAT PHRASE READS "SPECIAL FISSIONABLE MATERIAL, EQUIPMENT OR FACILITY".

D) SECTION 8: AGENCY PROPOSED, CONSEQUENT TO REFORMULATION SECTION 1(C), INSERTION OF PHRASE "OR EXTENSION OF" TO FOLLOW PHRASE "ANY AMENDMENT" AND REPLACEMENT OF PHRASE "TO THAT AGREEMENT" BY WORD "THERETO". MISSION RECOMMENDS U.S. AGREE, IF AGENCY'S PROPOSED FORMULATION SECTION 1(C) ACCEPTED.

E) SECTION 9(D)(2): AFTER LENGTHY DISCUSSION OF PELEG'S REQUEST THAT THE AGENCY "STIPULATE EITHER IN THE CONFIDENTIAL

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SUBSIDIARY ARRANGEMENTS OR IN A SEPARATE OFFICIAL COMMUNICATION, THAT ANY FUTURE IMPLEMENTATION" SECTION 9(D) "WILL BE SUBJECT TO A PRIOR AGREEMENT BETWEEN THE PARTIES", REVISION TO 9(D)(2) WAS PROPOSED BY AGENCY TO READ, AFTER FIRST COMMA, "IN WHICH CASE, HOWEVER, THERE SHALL BE CONSULTATIONS AMONG THE PARTIES, IN ORDER TO ASCERTAIN AT WHAT FUTURE TIME OR UNDER WHICH CONDITIONS THE AGENCY WOULD BE ABLE," ETC. MISSION RECOMMENDS U.S. AGREE.

ISRAELIS MAY BE CONCERNED (EDEN WAS UNSURE OF REAL PROBLEM) THAT AGENCY MAY CAPRICIOUSLY REFUSE TO LIST ITEMS, THEREBY FRUSTRATING FUTURE TRANSFERS FROM U.S.; ROMETSCH, ON OTHER HAND, WAS UNDERSTANDABLY UNWILLING TO DEFINE IN ADVANCE ALL CIRCUMSTANCES WHICH WOULD INHIBIT AGENCY CARRYING OUT ITS RESPONSIBILITIES.

F) SECTION 10(A)(4): PELEG PROPOSED INSERTING, AFTER "(1), (2) OR (3) ABOVE," PHRASE "AND IMPROVED AS DEFINED IN PARAGRAPH 74 OF THE SAFEGUARDS DOCUMENT." SECRETARIAT POINTED OUT THAT SUCH INCLUSION WOULD LIMIT EFFECT OF THIS PROVISION AND THEREFORE REJECTED PROPOSAL. MISSION RECOMMENDS U.S. DO LIKEWISE.

G) SECTION 10(B)(2): PELEG NOTED THAT U.S. DRAFT READS "ANY EQUIPMENT OR FACILITY" WHILE AGENCY DRAFT READS "ANY FACILITY". SECRETARIAT SAID THIS WAS OVERSIGHT, BUT HAD NO STRONG VIEW. MISSION NOTES EDEN SEEMED RELAXED WHEN HE REALIZED THAT, WHEN MATERIAL LEAVES EQUIPMENT OR FACILITY, SAFEGUARDS GO WITH MATERIAL AND DID NOT MAKE CLEAR REQUEST TO DROP "EQUIPMENT OR". MISSION NOTES THAT U.S.-SWISS TRILATERAL SECTION, FOR EXAMPLE, READS "ANY FACILITY". WE RECOMMEND THAT U.S. EXPRESS PREFERENCE FOR U.S. DRAFT FORMULATION, BUT BE PREPARED DROP "EQUIPMENT OR" IF ISRAELIS MAKE REQUEST.

H) SECTION 12: ISRAELIS HAD EARLIER QUESTIONED PHRASE "AGENCY'S CALCULATIONS SHALL GOVERN" BUT PELEG ACCEPTED

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INR-07 L-02 NSAE-00 NSC-05 RSC-01 SSO-00 INRE-00

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C O N F I D E N T I A L SECTION 2 OF 2 IAEA VIENNA 0146

SECRETARIAT SUGGESTION THAT LAST WORD IN PHRASE BE REPLACED WITH "BE USED". MISSION RECOMMENDS U.S. AGREE.

I) SECTION 15: PELEG QUESTIONED WHY OPENING PHRASE REFERS TO "ANY INTENDED TRANSFER" RATHER THAN "ANY TRANSFER" (AS IN U.S.-AUSTRIA TRILATERAL, INFCIRC/152). SECRETARIAT EXPLAINED OBJECT WAS TO MAKE CLEAR THAT NOTIFICATION REQUIRED IN ADVANCE, BUT THAT SECRETARIAT DID NOT CONSIDER INCLUSION OF "INTENDED" ESSENTIAL, SINCE 15(A) REQUIRES ARRANGEMENTS BY AGENCY TO SAFEGUARD "HAVE BEEN MADE", WHICH COULD ONLY BE ACCOMPLISHED IF AGENCY NOTIFIED IN ADVANCE. MISSION RECOMMENDS U.S. EXPRESS PREFERENCE FOR INCLUSION OF "INTENDED" BUT BE PREPARED DROP, IF ISRAELIS INSIST.

J) SECTION 15(B): PELEG REQUESTED REINSERTING THIS SUB-PARA WHICH HAD BEEN DELETED IN AGENCY DRAFT (SEE PARA 2(C) REFTEL D). SECRETARIAT AGREED.

K) SECTION 18: SECRETARIAT AGREED THAT REFERENCE IN PENULTIMATE SENTENCE SHOULD BE TO "PARAGRAPHS 26 OR 27", VICE "PARAGHS 26 AND 27". MISSION RECOMMENDS THIS CORRECTION OF CLERICAL ERROR.

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L) PART IV: SECRETARIAT AGREED TITLE SHOULD READ "SAFEGUARDS PROCEDURES" VICE " SAFEGUARDS AND PROCEDURES". MISSION RECOMMENDS CORRECTION THIS CLERICAL ERROR.

M) SECTION 28(C): PELEG QUESTIONED INCLUSION THIS PROVISION, APPARENTLY BECAUSE IT WAS OMITTED IN U.S.-AUSTRIA TRILATERAL. SECRETARIAT EXPLAINED THAT IT WAS DEVELOPED FOR USE IN NPT SAFEGUARDS AGREEMENTS AND THAT SWITZERLAND AND SWEDEN HAD LATER REQUESTED ITS INCLUSION THEIR RESPECTIVE U.S. TRILATERALS. PROVISION WAS CONSIDERED USEFUL BY THOSE GOVERNMENTS BUT IF ISRAEL DID NOT WISH APPARENT BENEFIT OF PROVISION, SECRETARIAT PREPARED OMIT. MISSION RECOMMENDS U.S. ADOPT SIMILAR POSITION.

N) SECTION 31: SECRETARIAT AGREED PELEG'S SUGGESTION THAT REFERENCE AT END FIRST SENTENCE SHOULD BE TO "THIS AGREEMENT" CIVE "THE AGREEMENT". MISSION RECOMMENDS U.S. AGREE TO CORRECTION CLERICAL ERROR.

O) SECTION 33: PELEG QUESTIONED OMISSION IN AGENCY DRAFT OF PHRASE "AS EXTENDED OR AMENDED FROM TIME TO TIME". SECRETARIAT EXPLAINED THAT REFERENCE REDUNDANT IN LIGHT FORMULATION OF DEFINITION IN SECTION 1(C). EDEN UNDERSTOOD BUT THOUGHT PELEG MAY WISH RETAIN. SECRETARIAT WILL NOT TAKE STRONG POSITION NOR DOES MISSION RECOMMEND U.S. DO SO.

2. PELEG HAD ALSO, IN LETTER, RAISED SEVERAL POINTS DEALING WITH SUBSIDIARY ARRANGEMENTS, BUT EDEN WAS WILLING TO DEFER THEIR DISCUSSION. HE DID POINT OUT THAT ISRAEL REGARDED MATTER OF FOUR TONS HEAVY WATER, PREVIOUSLY SUPPLIED BY U.S. AS SERIOUS MATTER, INASMUCH AS IN 1965, AGENCY HAD AGREED IN WRITING TO SPECIAL PROCEDURES RATHER THAN THOSE APPLICABLE TO SAFEGUARDING NUCLEAR MATERIAL, BUT THAT SECRETARIAT HAD INFORMED EDEN (ROMETSCH CONFIRMED) THAT SECRETARIAT HAD NEW POLICY (WORKED OUT WITH U.S.) CALLING FOR APPLICATION SUCH SAFEGUARDS TO QUANTITIES GREATER THAN ONE TON. THIS MATTER DOES NOT APPEAR TO BE RELATED TO AMENDMENT OF TRILATERAL AND PELEG LETTER DOES NOT MENTION, BUT CONFIDENTIAL

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ISRAELIS MAY HAVE IN MIND INJECTING ISSUE INTO CURRENT NEGOTIATIONS, SINCE SECRETARIAT CLEARLY INTENDS SEEK CHANGE IN ARRANGEMENTS IN COURSE SUBSIDIARY ARRANGEMENTS NEGOTIATION.

3. INSTRUCTIONS REQUESTED SOONEST RE EACH ITEM NOTED PARA 1 ABOVE.

4. THIS MESSAGE DOES NOT RPT NOT TAKE ACCOUNT OF REFTTEL B WHICH WAS ONLY RECEIVED JANUARY 9. SEPTTEL REPORTS ACTION BY MISSION AND RESULTS. PORTER

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